

## January 14, 2004 Commission Meeting Summary

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### ITEM #

1. **Public Comment.** *The Commission received comments from Caren Daniels-Meade, Chief of the Secretary of State's Political Reform Division, regarding the CAL-ACCESS electronic filing program.*

### CONSENT ITEMS

2. **Approval of the Minutes of the December 11, 2003, Commission Meeting.** *Approved.*

### ENFORCEMENT

3. **Proposed ALJ Decision: *In the Matter of James Lotter, FPPC #01/276.*** In the Matter of James Lotter, FPPC No. 01/276. Staff: Commission Counsel Elizabeth K. Conti, Investigator Bonnie Swaim. James Lotter was a member of the Gualala Municipal Advisory Council. The Commission issued an Accusation alleging that Lotter failed to timely file one statement of economic interests, in violation of Government Code section 87300 (1 count). Following a hearing, Administrative Law Judge Muriel Evens issued a proposed decision finding that Lotter failed to timely file one statement of economic interests, imposing an administrative penalty of \$500. The Enforcement Division is requesting that the Commission accept the proposed decision in its entirety. The Commission may hear argument on the proposed decision, and then will consider in closed session whether to adopt the proposed decision. *The Commission received testimony from Mr. Lotter and accepted the proposed Administrative Law Judge decision; \$500 fine.*

### Campaign Reporting Violations

4. **In the Matter of Plaza Cleaning Service Company, L.P.; FPPC No. 02/1044.** Staff: Commission Counsel Jennie Eddy and Investigator III Jon Wroten. Respondent Plaza Cleaning Service Company, L.P. is a New York domestic limited partnership, headquartered in New York City, New York. Respondent committed two violations of the Act by failing to disclose a late contribution in properly filed late contribution report, in violation of Section 84203(a) (1 count), and failing to file a semi-annual campaign statement, in violation of Section 84200(b) (1 count). *Approved; \$4,000 fine.*
5. **In the Matter of Merri Jean Ross; FPPC No. 03/552.** Staff: Commission Counsel Jennie Eddy and Investigator III Jon Wroten. Respondent Merri Jean Ross is a homemaker who resides in Beverly Hills. Respondent committed one violation of the Act by failing to timely file a semi-annual campaign statement, in violation of Section 84200(b) of the Government Code (1 count). *Approved; \$2,000 fine.*
6. **In the Matter of Byron Wear; FPPC No. 00/391.** Staff: Commission Counsel Steven Meinrath and Supervising Investigator Dennis Pellon. Respondent Byron Wear was a

member of the San Diego City Council. For three consecutive years Respondent Wear failed to disclose an outstanding loan on his annual statements of economic interests, in violation of sections 87200 and 87207 of the Government Code. (3 counts.) *Approved; \$7,000 fine.*

### **SEI Violations**

- 7. In the Matter of Suzanne Levoe, FPPC No. 01/434.** Staff: Commission Counsel Elizabeth K. Conti and Investigator III Dan Schek. Respondent Suzanne Levoe, former member of the City of Sierra Madre Planning Commission, failed to timely file 2001 and 2002 annual statements of economic interests, in violation of Section 87203 (2 counts). *Approved; \$2,000 fine.*
- 8. In the Matter of Robert McAdoo, FPPC No. 02/369.** Staff: Commission Counsel Jeffery A. Sly and SEI Coordinator Mary Ann Kvasager. Respondent Robert McAdoo, a member of the board of directors for the Ukiah Valley Fire Protection District for the County of Mendocino, California, failed to timely file a 2001 annual statement of economic interests, in violation of Government Code section 87300 (1 count). *Approved; \$1,500 fine.*
- 9. In the Matter of Robert Meyerson, FPPC No. 02/596. Staff: Commission Counsel Jeffery A. Sly and SEI Coordinator Mary Ann Kvasager.** Respondent Robert Meyerson, a member of the Dental Examiners Board for the California Department of Consumer Affairs, failed to timely file a 2001 annual statement of economic interests, in violation of Government Code section 87300 (1 count). *Approved; \$200 fine.*
- 10. In the Matter of Gilbert Otero, FPPC No. 02/691. Staff: Commission Counsel Jeffery A. Sly and SEI Coordinator Mary Ann Kvasager.** Respondent Gilbert Otero, District Attorney of the County of Imperial, California, failed to timely file a 2001 annual statement of economic interests, in violation of Government Code section 87203 (1 count). *Approved; \$200 fine.*
- 11. In the Matter of Michael Brooks, FPPC No. 02/619.** Staff: Commission Counsel Jeffery A. Sly and SEI Coordinator Mary Ann Kvasager. Respondent Michael Brooks, a member of the Planning Commission for the City of Hughson, California, failed to timely file a 2001 annual statement of economic interests, in violation of Government Code section 87203 (1 count). *Approved; \$200 fine.*

### **Major Donor - Streamlined Procedure**

- 12. Failure to Timely File Major Donor Campaign Statements** – Staff: Chief Investigator Alan Herndon, Investigator III Jon Wroten, and Political Reform Consultant Mary Ann Kvasager. The following persons and entities have entered into stipulations for failing to file major donor campaign statements that were due for the calendar year of 2002, in violation of Government Code Section 84200:

- a. **In the Matter of Kathy Levinson, FPPC No. 2003-578.** Kathy Levinson of Palo Alto, California failed to timely disclose contributions totaling \$11,500 (2 counts). *Approved; \$1,725 fine.*
- b. **In the Matter of J. Brian Thebault, FPPC No. 2003-587.** J. Brian Thebault of New Vernon, New Jersey failed to timely disclose contributions totaling \$10,000 (1 count). *Approved; \$1,500 fine.*

### **Late Contribution – Streamlined Program**

**13. Failure to Timely File Late Contribution Reports – Proactive Program.** Staff: Chief Investigator Alan Herndon, Investigator III Jon Wroten. The following persons and entities have entered into stipulations for failure to file late contribution reports in 2002, in violation of Government Code Section 84203:

- a. **In the Matter of John P. Manning, FPPC No. 2003-823.** John P. Manning of Boston, Massachusetts failed to timely disclose a late contribution totaling \$10,000.00. (1 count). *Approved; \$1,500 fine.*
- b. **In the Matter of Richard Del Piero, FPPC No. 2003-839.** Richard Del Piero of Watsonville, California failed to timely disclose late contributions totaling \$14,400.00. (3 counts). *Approved; \$2,160 fine.*

## **LEGAL MATTERS**

### **Emergency Amendment and Adoption**

**14. Post Election Fundraising – Section 85316; Proposed Adoption of Emergency Amendment to Regulation 18531.6 and Adoption of Emergency Regulation 18531.61.** Staff: Commission Counsel C. Scott Tocher. In light of recent experiences during the gubernatorial recall election, the Commission is considering amendment of regulation 18531.6, which governs post-election fundraising. In adopting regulation 18531.6, which interprets section 85316's prohibition on post-election fundraising in excess of net debt, the Commission determined that the statute's prohibition does not apply to election committees formed for elections occurring prior to the effective date of Proposition 34. The Commission will reconsider that decision and may, in addition, adopt an emergency regulation clarifying that the post-election fundraising restrictions of section 85316 apply to committees formed for elections occurring prior to the effective date of the proposition. *The Commission adopted the emergency amendments and emergency regulation.*

### **Approval of Forms and Manuals**

**15. Approval of Campaign Disclosure Manuals for State Candidates, Their Controlled Committees, and Committees Primarily Formed to Support or Oppose State Candidates (Manual 1), and for Local Candidates, Candidates for Superior Court,**

**Their Controlled Committees, and Committees Primarily Formed to Support or Oppose Local Candidates (Manual 2).** Staff: Technical Assistance Division Chief Carla Wardlow. Staff will request approval of two campaign disclosure manuals for state and local candidates. *Approved.*

### **Discussion**

**16. Issues Memo: Sections 85303 and 85310 –Expenditures by Candidate-Controlled Ballot Measure Committees.** Staff: Commission Counsel C. Scott Tocher. This memorandum initiates a discussion of the issues surrounding application of section 85310, which generally partially governs issue advocacy, to candidate-controlled ballot measure committees. The experience of the recent gubernatorial recall election has raised the issue of whether campaign contribution limits can apply to ballot measure committees that are controlled by candidates when payments are made for advertisements in which the candidate appears. This staff memorandum addresses this and various other issues arising out section 85310, including its interaction with section 85303. Pre-notice discussion of possible regulatory action will be considered in April 2004. *No action taken.*

### **ITEMS REMOVED FROM CONSENT**

#### **ACTION ITEMS**

**17. Legislative Report.** Staff: Executive Director Mark Krausse. *No action taken.*

#### **DISCUSSION ITEMS**

**18. Executive Director’s Report.** Staff: Executive Director Mark Krausse. *No action taken.*

**19. Litigation Report.** Staff: General Counsel Luisa Menchaca and Senior Commission Counsel Larry Woodlock. *No action taken.*